REMARKS

Claims 1-51 and 61-83 are pending in the application. Claims 1-51 and 61-89 will be pending after entry of this amendment. Claims 1, 19, 35, 40, 45, and 47 are being amended. Support for these amendments can be found at least on page 8, line 14 through page 9, line 8 and FIG. 1 of the Specification, as originally filed. New claims 84-89 are being added. Support for these new claims can be found at least on page 9, lines 5-8 of the Specification, as originally filed. No new matter is being introduced by way of this amendment.

Regarding § 103 Rejection

Claims 1-7, 11-16, 18-24, 28-30, 32, 33, 35, 36, 38, 39-41, 43-48, 50, 51, 62, 64, 66, 68, 70, 72, and 74-79 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Primak et al. (Pub. No. 2001/0039585), hereinafter "Primak" in view of Logan et al. (USPN 6,578,066), hereinafter "Logan."

Applicant's claim 1 as amended in the Claim Listing above recites, in part, "a central server that…provides in response to a client request a candidate server list of at least two candidate servers to a network node, other than the central server, adapted to interrogate individual servers represented in the candidate server list by issuing probes to the individual servers and receiving responses to the probes," where the underlined text are elements added by way of amendment.

Briefly, Applicant's amended claim 1, in an embodiment illustrated in FIG. 1 of Applicant's Specification, includes a network node, such as a client, that issues a client request for service to a central server. Specification, page 8, line 4 – page 9, line 14. Responsively, the central server provides to the client in a candidate server selection list, a list of addresses corresponding to candidate servers. *Id.* In Steps 3 through 6 of FIG.1, the client interrogates the candidate servers in the candidate server selection list by issuing probes to the candidate servers. *Id.* From the interrogation, the client makes a determination as to which candidate server to select to service the request. In Step 7, the client accesses the selected server. *Id.* Note that in FIG. 6, the "network node" that interrogates individual servers is a DNS server.

In this way, by interrogating individual candidate servers with issued probes and received responses, and determining from the interrogation which one of the candidate servers in the candidate server selection list to access, Applicant's claimed invention adds robustness to a server selection process operating in a dynamically changing network. Specification, page 8, line 24 – page 9, line 3. For example, if a certain route is down due to power failure, congestion or otherwise, one (or several) probes may not reach their intended candidate servers. *Id.* Consequently, from this interrogation, a client is able to determine that such candidate servers are not to be selected to service a client request.

In contrast to Applicant's amended claim 1, Primak discloses a client that communicates with servers to make a connection request or to conduct substantive communications (e.g., Primak, page 2, paragraph [0024], last sentence) where the client communicates with the server at an address provided by a central server. Note that the central server returns a single server address in a typical DNS manner. The Primak client(s) (a network node other than a central server) does not "interrogate individual servers represented in the candidate server list by issuing probes to the individual servers and receiving responses to the probes," as now recited in amended claim 1. In other words, in the case of Primak, "communicates" means conducting substantive communications (i.e., data transfer) rather than conducting "interrogation" processes through the issuing and receiving of probes as described in Applicant's specification at least on page 3, lines 12-23. As such, Applicant respectfully submits Primak's communicating with servers to make a connection request or to conduct substantive communications is not the same as Applicant's interrogating individual servers by issuing probes to the individual servers and receiving responses to the probes from the individual servers.

Similar to Primak, Logan discloses a client that communicates with servers to make a connection request or to conduct substantive communications. For example, in FIG. 3 of the Logan reference, Logan begins at step 302 by receiving a user request for a DNS-lookup and ends at step 312 by responding to the user's DNS-lookup with the IP-address of the "best" virtual IP-server (VIP) to service the user. Logan, column 11, line 61 – column 12, line 4. In contrast to Applicant's FIG. 1, Logan's FIG. 3 lacks steps corresponding to Applicant's steps 3-6 where a client interrogates candidate servers by issuing probes to the candidate servers and receiving responses to the probes from the candidate servers. As such, neither Primak nor Logan, either

separately or in combination, teach every limitation of Applicant's claim 1, as now amended ("...a network node, other than the central server, adapted to interrogate individual servers represented in the candidate server list by issuing probes to the individual servers and receiving responses to the probes...").

Moreover, neither Primak nor Logan provides motivation for Applicant's claim 1, as now amended. Logan describes that for a given domain name an ordered hand-off table of remote servers storing the weight of each remote server is preferably constructed. Logan, column 9 lines 20-31 and Table V. The hand-off table is thereafter consulted and the IP-address corresponding to the remote server is returned based on the current weights stored in the hand-off table. In other words, to determine which remote server from a list of remote servers to return, Logan merely looks up the weights for each remote server in the list a makes a selection based on the looked up weights. Accordingly, there is no need, and thus no motivation based on the Logan reference, for a person of ordinary skill in the art to have a network node (e.g., a client of DNS server) interrogate each remote server by issuing probes to each remote server and receiving responses to the probes from each remote server, as is clearly claimed in Applicant's now amended claim 1.

Accordingly, since neither Primak nor Logan provide motivation of Applicant's claim 1, as now amended ("...interrogate individual servers represented in the candidate server list by issuing probes to the individual servers and receiving responses to the probes..."), Applicant respectfully submits that the rejection of claim 1 under 35 U.S.C. § 103(a) has been overcome.

Independent claims 19, 35, 40, 45 and 47 have similar limitations and should be allowable for the reasons presented above.

Claims 17, 34, and 80 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Primak in view of Logan in view of Meek et al. (USPN 6,539,426), hereinafter "Meek."

Because claims 17, 34, and 80 depend from the independent claims, the above remarks apply. Therefore, because these claims depend from the independent claims, Applicant respectfully submits they should be allowed for at least the same reasons.

Claims 8-10, 25-27, 37, 42, 49, 73, and 81-83 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Primak in view of Logan in view of Guenthner et al. (USPN 6,134,588), hereinafter "Guenthner."

Because claims 8-10, 25-27, 37, 42, 49, 73, and 81-83 depend from the independent claims, the above remarks apply. Therefore, because these claims depend from the independent claims, which were not rejected under 35 U.S.C. § 103(a), Applicant respectfully submits they should be allowed for at least the same reasons.

Claims 61, 63, 65, 67, 69, and 71 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Primak in view of Logan in view of Lin (USPN 6,298,451).

Because claims 61, 63, 65, 67, 69, and 71 depend from the independent claims, the above remarks apply. Therefore, because these claims depend from the independent claims, which were not rejected under 35 U.S.C. § 103(a), Applicant respectfully submits they should be allowed for at least the same reasons.

Regarding New Claims

New claim 84 recites, in part, "the network node determines which of the individual servers represented in the candidate server list is to service the client request based on the responses to the probes." Support for the new claims can be found at least on page 9, lines 5-8 of the Specification. No new matter is added by way the new claim.

Briefly, in one embodiment of Applicant's claimed invention, a network node, other than a central server, after receiving responses to issued probes back from each of the candidate servers represented in a candidate server list, makes a determination according to one or several criteria as to which candidate server to select to service a client request. Specification, page 9, lines 5-8. Since it is the network node which determines (from the probes issued by the network node and from the responses received by the network node) which of the candidate servers to select, the network node's determination may be different from another network node's determination. As such, with Applicant's new claim 84, a particular network node is able to make a determination as to which candidate server to select, which is particular to that network node.

As argued above, neither Primak nor Logan teach or provide motivation for Applicant's interrogating individual servers represented in the candidate server list by issuing probes to the individual servers and receiving responses to the probes. Thus, it stands to reason that neither Primak nor Logan teach or provide motivation for Applicant's "the network node determines

which of the individual servers represented in the candidate server list is to service the client request based on the responses to the probes," as claimed in new claim 84. New claims 85-89, which depend from independent claims other than claim 1, recite similar limitations and should be allowable for at least similar reasons. Accordingly, Applicant respectfully requests allowance of new claims 84-89.

CONCLUSION

In view of the above remarks, it is believed that all claims that will be pending after entry of this amendment (claims 1-51 and 61-89) are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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